



AO 91 (Rev. 11/11) Criminal Complaint

## UNITED STATES DISTRICT COURT

for the

Northern District of New York

UNITED STATES OF AMERICA

v.

Oscar ROJAS-Cruz

Defendant.

Case No. 8:23-MJ-606 (GLF)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date(s) of October 21, 2023, in the county of Franklin in the Northern District of New York the defendants violated:

*Code Section*

8 U.S.C. § 1324(a)(1)(A)(ii)

*Offense Description*

The Defendant, knowingly and in reckless disregard of the fact that aliens have come to, entered, or remained in the United States in violation of law, did transport, move and attempt to transport and move, such aliens within the United States by means of transportation or otherwise in furtherance of such violation of law.

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.

Complainant's signature

U.S. Border Patrol Agent Adam M. Matott

Printed name and title

Attested to by the Affiant in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

Date:

Oct. 23, 2023

Judge's signature

City and State: Plattsburgh, New York

Hon. Gary L. Favro, U.S. Magistrate Judge

Printed name and title

*Continuation Sheet, United States v. Oscar ROJAS-Cruz.*

This criminal complaint is based on the following facts:

On October 21, 2023, at approximately 5:20 p.m., Burke Border Patrol Agents (BPAs) were contacted by a border-area landowner, who stated they observed several individuals walking through the woods on a railroad bed, south of Stebbins Road in Burke, NY, which is less than one mile from the International Boundary. BPAs responded to the area and positioned themselves in areas where they might encounter a vehicle coming to pick up the individuals. At approximately 5:30 p.m., BPAs encountered a gray Chrysler minivan bearing Florida registration AS56QH traveling eastbound on Coveytown Road. The railroad bed intersects Layhan Road just north of Coveytown Road. The timing of the encounter with the minivan would be approximately the same amount of time it would take a group of people to walk from the earlier sighting to Layhan Road. Layhan and Coveytown Roads are rural, country roads, normally only travelled by local residents and farmers.

BPAs followed the vehicle from Coveytown Road to Callahan Road where it turned southbound, and observed that the vehicle was occupied by several people. As BPAs were following the vehicle, vehicle records checks conducted revealed the vehicle to be a rental. BPAs commonly encounter rental vehicles in smuggling cases because rental vehicles are typically newer and well-maintained, thus making them highly reliable, and if arrested, the driver doesn't face personal vehicle seizure. BPAs continued to follow the vehicle to US Highway 11 (US 11) where it turned eastbound, signaling that it was leaving the area. Due to the time of night, the landowner report of several people walking through the woods near the border, and the presence of a large, out-of-state registered rental vehicle traveling on rural roads near the border, occupied by several people, BPAs initiated an immigration stop on US 11 in Chateaugay, NY.

BPAs approached the vehicle, identified themselves as such, and immediately noticed a driver and six passengers inside the minivan. The driver was identified as Oscar ROJAS-Cruz. When asked his citizenship and immigration status, ROJAS-Cruz claimed to be a Mexican citizen in the U.S. with a pending immigration asylum claim. When asked their citizenship and immigration status, the six passengers all claimed to be Mexican citizens with no legal right to be in the U.S. All six passengers freely admitted to crossing the border illegally earlier that evening.

At that time, all seven subjects were arrested and transported to the Burke Border Patrol Station for records checks, interviews, and processing.

At the station, biographical information and fingerprints were entered into Department of Homeland Security databases for all seven subjects. Record checks confirmed information previously gathered roadside.

ROJAS-Cruz was issued *Miranda* rights, and agreed to answer questions without a lawyer present. In his interview, ROJAS-Cruz stated he was contacted by a friend named "Alexis" in Mexico, asking him to pick up some people in New York. ROJAS-Cruz stated he flew from Atlanta, Georgia to New York, NY, where he rented the minivan and drove to the border area. ROJAS-Cruz stated he knew the people he was picking up were crossing the border illegally. ROJAS-Cruz stated he was going to be paid, and wasn't sure exactly how much, but expected it to be at least \$1,000.00. ROJAS-Cruz provided consent for agents to search his phone. In his phone, agents found communications with one of the passengers he had picked up who were sharing GPS locations, as well as communications with the expected arranger for the event.